

REMARKS

Reconsideration of the pending application is respectfully requested in view of the foregoing amendments and the following remarks.

Status of the Application

Claims 1-40 are currently pending, with claims 1 and 12 being amended to sharpen the language prior to examination on the merits. No new matter has been introduced into the application by way of these amendments.

Summary of the Office Action

The Office Action has entered a restriction requirement under 35 U.S.C. § 121. Specifically, claims 1-11, 14-25, 28-37 and 40 are said to constitute Group I (an invention for detecting the orientation of a radiographic image), while claims 12, 13, 26, 27, 38 and 39 are said to constitute Group II (an invention for orienting an object in an image). The Action advises that the inventions are related as subcombinations, “wherein subcombination II has a separate utility such as orienting an object in an image.” As such, the Office Action concludes that the subcombinations are distinct.

Applicants respectfully traverse the restriction requirement. There are two criteria for a proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed, and (2) there must be a serious burden on the Examiner if restriction is not required. M.P.E.P. § 803. Consequently, as set forth in M.P.E.P. § 803: “If the search and examination of all the claims in an entire application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to distinct or independent inventions.” “The examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required ... [and] must show by appropriate explanation one of the following: (1) separate classification thereof ... (2) a separate status in the art when they are classifiable together ... (3) a different field of search.” M.P.E.P. § 808.02.

While the Office Action alleges that there would be a serious burden on the Examiner if restriction was not required, Applicants note that all claims have been grouped into a single class (Class 382). Thus, although the inventions of Groups I and II may be patentably distinct, Applicants submit that the Examiner would not be unduly burdened in the search for

prior art relevant to each group of claims. For these reasons, withdrawal of the restriction requirement is respectfully requested.

If the restriction is made final, however, Applicants provisionally elect the claims of Group I (1-11, 14-25, 28-37 and 40) for prosecution at this time, and identify claims 1-11, 14-25, 28-37 and 40 as encompassing the elected invention.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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Date: March 24, 2009